

CHAPTER 4

ENVIRONMENTAL CONSEQUENCES

The potential environmental consequences of the proposed action and no action alternative are presented in this section. Potential impacts evaluated in this EA are those that may occur as a direct result of the proposed cessation of training at the VNTR as defined in PL 106-398, as amended by PL 107-107. In general, these impacts occur at the same time and place of the proposed action and would be limited to those that occur on Vieques, at NSRR, and within the local, and regional Puerto Rican economy.

The following table illustrates the breadth of organizations that directly support VNTR operations and summarizes each organization's level of support (Table 4-1). If training on the VNTR were to cease, then the VNTR would be closed and directly-related assets, facilities, and personnel would no longer be required for their current functions

Table 4-1. Summary of Organizational Support for VNTR

<i>Organization</i>	<i>Location</i>	<i>Personnel</i>			
		<i>Military</i>	<i>Civilian</i>	<i>Contract</i>	<i>Total</i>
AFWTF	Vieques	5	0	39 ¹	44
Explosive Ordnance Disposal Unit	NSRR	6	0	0	6
NSRR	Vieques	7	15	18 ²	40
Construction Battalion Unit	Vieques	9	0	0	9
Naval Security Force	Vieques	15	0	0	15
Medical Unit	Vieques	1	0	0	1
	Total:	43	15	57	115

¹ Two of AFWTF's 39 contract personnel are located on Culebra, rather than Vieques

² Includes 6 non-appropriated funds personnel

If SECNAV decides to cease training at the VNTR, then the VNTR would be closed, and the land and facilities of the VNTR would be transferred as designated by and in accordance with PL 106-398, as amended by PL 107-107, which directs that "upon termination of Navy and Marine Corps training operations on the island of Vieques, the Secretary of the Navy shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Interior, (1) the Live Impact Area on the Island of Vieques; (2) all Department of Defense real properties on the eastern side of the island that are identified as Conservation Zones; and (3) all other Department of Defense real properties on the eastern side of the island." Future management of natural resources on the VNTR would be determined by the DOI, in accordance with PL 106-398, as amended by PL 107-107, which also directs the Secretary of Interior to administer the LIA "as a wilderness area under the Wilderness Act (16 U.S.C. 1131 *et seq.*) and deny public access to the area," and to administer all remaining VNTR properties "as wildlife refuges under the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd *et seq.*) pending the enactment of a law that addresses the disposition of such properties."

Therefore, approximately 900 acres (364 ha) of VNTR property that constitutes the LIA would be transferred to DOI to be administered as a wilderness area under the Wilderness Act (16 U.S.C. 1131 *et seq.*). As directed in the legislation, public access to these 900 acres would be prohibited and the wilderness area would be managed so that human influences are kept to a minimum and that the unique habitat is not disturbed or destroyed. The remaining 13,600 acres (5,504 ha) of the VNTR would be administered as national wildlife refuges and managed to protect and preserve the natural and cultural resources of these lands. This portion of the property would be owned and managed by DOI in accordance with the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd *et seq.*). According to Act, use of the land would be managed to:

- Conserve, manage, and where appropriate restore fish, wildlife, and plants and their habitats;
- Maintain the biological integrity, diversity, and environmental health for the benefit of present and future generations of Americans; and
- Provide opportunities for compatible wildlife-dependant recreational uses, including fishing, hunting, wildlife observation and photography, and environmental education and interpretation.

As a result of this legislative direction to transfer the VNTR to DOI for such management purposes, the impacts of the proposed action are discussed within the context of anticipated lawful implementation and full compliance with all applicable laws and regulations by DOI. The impacts of DOI management of the VNTR lands are only discussed in a general sense in this EA because DOI has not yet developed a comprehensive management plan for conservation of the land, as required by the Sikes Act (16 U.S.C., 670h). DOI will only develop such a plan in the event the transfer occurs. After the VNTR lands are transferred to DOI, the impacts of future use would be evaluated by DOI once they propose the development and implementation of their comprehensive management plan.

It is also recognized that the proposed cessation of training may have an effect on how the Navy currently uses the PROA and other AFWTF assets while training the Atlantic Fleet. Currently, the Atlantic Fleet conducts several major Fleet integrated training exercises in the PROA every year, utilizing the VNTR as well as the other AFWTF ranges described in Section 2.1. The existing combination of land, sea, and airspace assets offer realistic inter-deployment training cycles (IDTC) of integrated carrier battle groups. The portion of the integrated training that occurs at the VNTR (NSFS, ATG strike, and marine expeditionary unit ground maneuvering) would have to be conducted elsewhere if SECNAV were to decide to cease training at the VNTR. However, to conduct only a part of IDTC training in the PROA and the remainder of the IDTC training requirements at other existing ranges and facilities would reduce the operational efficiency and cost effectiveness of such training to unacceptable levels. Therefore, integrated IDTC training likely would occur elsewhere and no longer take place in the PROA. If the PROA were not used as frequently by the Atlantic Fleet, there is a possibility that the AFWTF mission and need for related support activities at NSRR could change over time. Impacts of a potential change in AFWTF's mission are not addressed in this EA, because the impacts of such a change would be addressed more appropriately once such an action were defined and proposed.

4.1 LAND USE

4.1.1 Proposed Action

The proposed action could have a slight positive impact on land use by providing more public access to the lands while maintaining protection of its natural resources as a wildlife refuge and a wilderness area. As a result of the proposed cessation of training at VNTR, Navy facilities would be closed and the Navy would remove associated temporary structures and equipment for reuse or disposition. The land and remaining facilities of the VNTR would be transferred to DOI in accordance with PL 106-398, as amended by PL 107-107. Approximately 900 acres (364 ha) of VNTR property that constitutes the LIA would be transferred to DOI to be administered as a wilderness area under the Wilderness Act, and as specified in the legislation, public access to the wilderness area would be prohibited. The remaining 13,600 acres (5,504 ha) would be administered as a wildlife refuge and managed to protect and preserve the natural and cultural resources of the land, and may result in public access to some areas for recreational purposes. The DOI would develop a comprehensive management plan for the VNTR lands to ensure adequate protection of the natural resources. Protection of these valuable resources by the DOI is considered a positive land use impact of the proposed action. Lands owned and managed by the DOI as a wilderness area or a wildlife refuge are not subject to local zoning, and thus would continue to be referred to as federal property in the Puerto Rico Zoning Regulations.

4.1.2 No Action Alternative

The no action alternative would not change existing land use and would result in no additional impacts on land use on the island of Vieques. Under the no action alternative, the Navy would continue use of VNTR and exclusively related facilities on NSRR. Navy and Marine Corps training would continue at existing levels for a maximum of 90 exercise days per year as detailed in the *Programmatic EA for Continued Use With Non-Explosive Ordnance of the Vieques Inner Range to Include Training Operations Typical of Large Scale Exercises, Multiple Unit Level Training and/or a Combination of Large Scale Exercises and Multiple Unit Level Training* (US Navy 2001a, pp 1-3 through 1-11).

As described in the Programmatic EA, continued operations would include the following training activities at VNTR: air, sea, and land maneuver warfare, air-to-ground (ATG) bombing and strafing, amphibious landings, artillery, close air support (CAS), combat search and rescue (CSAR), mine warfare (MIW), naval surface fire support (NSFS), naval coastal warfare (NCW), small arms training, and special operations training. Various combinations of these training activities provide required operational and tactical training such as unit level training (ULT), composite training unit exercises (COMPTUEX), and joint task force exercises (JTFEX).

4.2 SOCIOECONOMICS

4.2.1 PROPOSED ACTION

Population and Housing

The proposed cessation of Navy operations and transfer of the VNTR property to DOI would have a minor short-term negative impact on the population of Vieques. Closure of the VNTR would directly result in a decrease in Navy civilian employment on the island of approximately 57 full time and 9 part time staff. In addition, approximately 43 military personnel who are stationed on Vieques would be reassigned to other duties in other locations. There would also be minor impacts at NSRR, with the loss of 4 civilian and 5 military jobs as a result of the closure of the VNTR. Finally, two part-time civilian positions would be eliminated on the Island of Culebra. Given the fact that many of the current civil service and contractor employees located at the VNTR are not native to Vieques, it can be assumed that some of the people whose jobs are eliminated on Vieques would relocate off-island to obtain continued employment.

The reduction in employment and potential loss of population could have minor short-term negative impacts on the housing market on Vieques. This could exacerbate an already weak housing market on the island.

The proposed action could also result in longer term minor increases in the island of Vieques' population. There are two aspects of the population change that must be considered: seasonal impacts and permanent impacts. The seasonal population change, associated with an increase in tourist visits, is expected to rise over time as the tourism industry on Vieques grows. The magnitude of the seasonal population fluctuations would depend on how many tourists would be attracted to Vieques. Several factors, including the amount of tourism development that occurs and the type and scale of improvements made to enhance Vieques' natural resources, would affect the number of tourists drawn to the island.

The short-run supply of hospitality resources and accommodations on Vieques is relatively limited, with only about 150 hotel and guest house rooms currently available on the island. If the Martineau Bay Resort Hotel opens for business, an additional 156 rooms would become available, more than doubling current hotel room capacity on the island. Likewise, current land use plans for the island do not contemplate significant increases in land areas that would support a major increase in the hospitality infrastructure. Given that all of the land to be transferred would be dedicated to conservation and none of the land would be available for private development, the indirect seasonal impact on the population associated with the transfer would be restrained by the existing stock of seasonal housing units and hospitality and other tourism support infrastructure.

It is possible that a slight permanent increase in the population would result over time as an indirect impact of the land transfer. The land transfer could increase economic activity and employment on the island over the longer term, which in turn would encourage a minor population shift to the island. Existing inhabitants could find it easier to obtain work, thus

reducing a major reason for out-migration, and people considering relocating to the island would find Vieques more attractive.

In addition, the longer-term increase in population and economic activity that is expected to occur under this alternative would have a minor positive impact on the island's housing market. As the population (seasonal and permanent) on the island increases, the demand for housing would increase. Some limited new construction would result from this demand for new homes, and the value of existing residences also would increase. However, given the size and relatively depressed nature of the current housing market on Vieques, these increases are expected to be minor.

Economy, Employment, and Income

The transfer of the VNTR property to DOI would have a minor short-term negative economic impact on Vieques, but could have a minor positive impacts on the economy resulting from increased tourism in the long-term. The loss of 57 full time and 9 part time jobs on Vieques would represent a reduction of about 3.8 percent of the total employment on the island when compared to the 2000 Census statistic of 1,712 employed civilians 16 years or older (USCB 2000). The loss of these jobs and associated local purchases of other goods and services by the Navy would result in an annual loss of approximately \$2,000,000 to the local economy (US Navy 2002d).

The closure of the VNTR also could have a long-term positive indirect impact on the Vieques economy. More opportunities for tourist patronage of beaches and conservation areas could attract outside interest in this region. In the long run, the additional recreational and conservation land could encourage more tourists to come to the island, thereby boosting the local economy.

Because formal land transfer to DOI would remove some restrictions on land access, additional recreational days could be available on those lands administered as a wildlife refuge by DOI. The exact nature of this renewed access to the property would be a function of the specific management decisions that DOI makes after it assumes control of the VNTR lands. DOI's comprehensive management plan would be consistent with the Navy's land use controls for protection of public health and safety. The increase in recreational days would allow residents and non-local tourists greater access and extended patronage periods. The number of day-trippers also could increase given the opening of the tourism window period. This impact would be experienced in increased occupancy rates over the season and perhaps an extension of the tourism season itself. A small number of new hotel rooms and inn accommodations likely would be added to the existing stock over time. Residential tourist development would likely create additional room capacity, as well as restaurants. Moderate positive indirect impacts from this development would occur over a medium- to long-term time period.

The indirect economic impacts from the increased tourism could be measured by several indicators. Tourists contribute to sales, profits, jobs, tax revenue, and income in an area. The most direct effects of increased tourism would be experienced in the primary tourism sectors

(lodging, restaurants, transportation, museums, amusements, and retail trade). The secondary economic effects from increased tourist patronage on the island would be experienced in most sectors of the economy as well. For example, an increase in tourist spending and occupancy rates at local resorts would impact the demand for catering supplies on the island. This increase in demand would, in turn, positively affect the profits and sales of local suppliers. As these local suppliers increase their employment and purchase additional raw materials from the local economy to meet this increase in demand for their goods and services, the positive economic impact of the original injection of funds would be “multiplied.” Likewise, a portion of the wages and salaries earned by the new hotel employees would be spent locally on Vieques and would contribute to the multiplier effect resulting from the initial tourist expenditure.

The long-term economic growth on Vieques expected under the proposed action would have a modest impact on the unemployment rate, and the labor force participation rate would rise slightly given the expected broadening of the economic base.

Taxes and Revenue

The transfer of the VNTR property would have very little direct impact on taxes and revenues generated on the island of Vieques. The land would remain federal property, and thus not subject to taxation by the local municipality. The loss of 66 civilian jobs and associated payroll and other expenditures would have a minor negative effect on local tax revenues.

On the other hand, the potential for increased tourism activity over time and associated economic development on Vieques could have a minor, long-term positive impact on the local tax base by increasing the value of improved property on the island. In addition, as the economy expands, business and sales tax revenues also would expand.

Transportation

There would be minor positive impacts on the transportation infrastructure associated with the proposed cessation of training and subsequent transfer of VNTR property to DOI. Roads on the eastern end of Vieques that are now unavailable to the public may become more accessible under DOI jurisdiction. In addition, restrictions that are placed on airspace and surface waters during operations at the VNTR would no longer be required.

In time, additional stress and congestion on the existing road systems could occur. The additional permanent and seasonal populations and the moderate amount of development that could occur may increase the total number of vehicles on the island and the number of passenger trips made annually. Given the uncertainties associated with DOI’s plans for managing the VNTR lands, it is currently impossible to accurately identify which roads and intersections would be most severely affected. However, some road improvements are expected to be required. In addition, some new road/trail construction could be required to provide appropriate ingress and egress to areas supporting conservation and isolated touristic development.

Water Supply and Distribution and Wastewater Treatment

One of the direct water supply impacts associated with closing the VNTR would be an immediate reduction in the potable water needs at the Camp Garcia facility. The other immediate impact of the proposed action would be a significant reduction in wastewater flow originating from Camp Garcia to its on-site treatment facility. However, over time, there could be an increased demand for water supply and wastewater treatment due to increased population and economic development that could occur on the island. This potential increased demand, however would be tempered by the fact that growth and development anticipated is relatively limited.

Power Supply

Demand for electricity at the former Camp Garcia facility would be reduced significantly as a result of the implementation of the proposed action. There still would be power requirements for the area, but the nature of this demand would be dependent upon management decisions for the property made by DOI in the future. Implementation of the proposed action also would have an indirect impact on electricity demand for the island as a whole. The modest increased seasonal and permanent population as well as the additional economic development expected to result from this alternative would increase electricity demand throughout the island. The existing power supply system is adequate to handle the small additional demand that may result under the proposed action.

Sanitary Landfill Facilities

The proposed cessation of training and subsequent closure of the VNTR would have only minor impacts on the generation and disposal of solid waste on Vieques. Transfer of VNTR property to DOI would eliminate the solid waste generated by the Navy and sent to the Santa Maria landfill. Some solid waste would be generated by DOI operations at the former VNTR, but the exact nature and volume of this waste is unknown at this time. Over time, as increases in tourism, economic development, and population on the island occur, a concurrent increase in the amount of municipal solid waste generated on Vieques would also be expected to increase. Given the relatively small anticipated increases in population, this additional generated waste is not expected to be significant.

Communications

There would be no specific direct impacts to the communications system as a result of the cessation of training or closure of the VNTR. As the anticipated additional residential, commercial, and tourism developments occur, it is possible that the existing communications infrastructure would need to expand. However, given the relatively low-level development anticipated under this alternative, the impact to the entire system is expected to be minor.

Community Services and Facilities

As a result of the cessation of training on the VNTR, the VNTR would be closed. As a result, there would be an immediate positive impact on the local police force, as the need would be eliminated for additional police protection associated with protests against the Navy on Vieques.

In the long term, the potential growth in the population, especially the increase in seasonal population, could require strengthening of some existing community services and facilities such as police, hospital and emergency medical services, and fire protection. However, the anticipated size of permanent population growth is expected to be insufficient to place any stress on the educational system. Given the overall conservation focus of the proposed action, additional park rangers, nature guides, and/or conservation security officers may also be required to continue to protect the unique ecological systems in these areas.

The negative impacts associated with the increase in demand for community services and facilities would be offset somewhat by the additional local government revenues that would be generated by this alternative. The increase in the tax base and the additional economic activity on the island would provide funding for most of the additional required services and facilities.

4.2.2 NO ACTION ALTERNATIVE

Under the no action alternative, the Navy would continue use of the VNTR and exclusively related facilities on NSRR. Navy and Marine Corps training would continue at existing levels for a maximum of 90 exercise days per year. The implementation of the no action alternative would result in no additional impacts on socioeconomics on the island of Vieques or at any other location.

4.3 NOISE

4.3.1 PROPOSED ACTION

The proposed action would have a slight positive impact on the noise environment. The VNTR would close as a result of the proposed action. All Navy activities would cease and no ordnance delivery or troop training would occur. Noise generated during training exercises that currently occur up to 90 days of the year would end and there would be a slight positive impact in those areas where noise from such operations can be heard.

4.3.2 NO ACTION ALTERNATIVE

The no action alternative would have no adverse impact on the noise environment. Under this alternative, operations would continue at the VNTR, and ordnance delivery and troop training would occur for up to 90 days per year. Noise levels during exercises would be similar to those that occur during present exercises. In the past, explosive ordnance detonations may have generated noise that resulted in minor impacts over a wide area. More recently, however, the Navy implemented procedures to monitor the noise and cease operations if noise levels exceeded 120 dB during use of the LIA, as sound levels above 120 dB begin to be felt inside the human

ear as discomfort and eventually pain at still higher levels. To ensure that noise levels produced in the civilian community are closely monitored, the Navy established and uses remote monitoring stations located 200 yards east of OP-1 towards the LIA and at the gate of Camp Garcia. Noise measured at this location during previous explosive ordnance detonation of UXO registered from the high 80s to 100 dB; however, noise as measured near/in the towns of Vieques by was between 50 and 70 dB. For reference, average ambient noise levels around the quieter Vieques neighborhoods is in the mid 40-50 dB range, while a truck driving by someone's house would register in the 60-70 dB range (according to calibrated Noise Monitoring System (NMS)). Therefore, noise generated during continued training under the no action alternative would be within approved levels and would not significantly affect the existing noise environment.

4.4 AIR QUALITY

Criteria used to determine the significance in air emissions are based on federal, state (i.e., commonwealth), or local air pollutant standards and regulations. The emissions would be considered significant if they: 1) increase ambient pollutant concentrations above the applicable NAAQS, 2) contribute to an existing violation of the NAAQS, or 3) interfere with or delay timely attainment of the NAAQS.

4.4.1 PROPOSED ACTION

The proposed action would have no adverse impact on air quality. Under the proposed action, training operations would cease and VNTR range activities would end. Training on VNTR would not occur and emissions from Navy exercises, ordnance delivery, facility operation and maintenance, or vehicular traffic would no longer be generated by the Navy. No emissions from Navy activities would be added to the air quality environment, thus there would be no significant impacts. As a result of cessation of training, the VNTR would be closed and lands transferred to DOI for administration as a wildlife refuge and a wilderness area. A comprehensive management plan for the VNTR has not yet been developed by DOI, however, a limited increase in tourist vehicles is anticipated in some areas of the VNTR. This limited increase in vehicular emissions is not expected to increase ambient pollution above NAAQS, change the attainment status, or adversely impact ambient air quality.

4.4.2 NO ACTION ALTERNATIVE

Emissions under the no action alternative would remain similar to those described under existing conditions. Navy exercises at VNTR would occur for up to 90 days of the year and operation and maintenance of the range and associated facilities would continue. Existing air quality conditions are in attainment with NAAQS and a conformity determination is not required to maintain the status quo. Current VNTR facility emissions are in compliance with the minor source permit from the Puerto Rico Environmental Quality Board. Therefore, the no action alternative would have no significant impact on the air quality.

4.5 HYDROLOGY AND WATER QUALITY

4.5.1 PROPOSED ACTION

The proposed action would have no adverse impact on hydrology or water quality. Under the proposed action, training operations would cease. As a result, the VNTR would be closed and the land transferred to the DOI for administration as a wildlife refuge and a wilderness area. The existing hydrological flows would not be changed by the proposed action and water quality of Vieques would not be affected. Because existing conditions are in compliance with water quality standards, it is anticipated that there would be no adverse impacts from the proposed cessation of training.

4.5.2 NO ACTION ALTERNATIVE

Hydrological conditions and water quality would remain unchanged from those described in Section 3.5. Because the Navy is currently in compliance with water quality standards both on the VNTR lands and along the coastal waters, there would be no significant impacts resulting from continued operations.

4.6 TERRESTRIAL ENVIRONMENT

4.6.1 PROPOSED ACTION

The proposed action would have no adverse impacts on vegetation and wildlife on the VNTR. As a result of the proposed cessation of training, the VNTR would be closed and transferred to DOI for administration as a wildlife refuge and a wilderness area. Navy training exercises would cease and the small areas of bare land and cleared spaces in the LIA would revert to disturbed land/scrub vegetation because little or no activity would occur under the new wilderness status. The Conservation Zones created as part of the 1983 MOU and the Navy's 1986 Land Use Management Plan in recognition of their contribution to the diverse tropical ecosystems on the Island would not be adversely affected by the proposed action, as the habitat of the Conservation Zones would be managed by DOI in accordance with the administrative requirements of the Wilderness Act (within the former LIA) and the National Wildlife Refuge System Administration Act, both of which would require DOI to manage the land to conserve natural resources. DOI also would prepare a comprehensive management plan as required by the Sikes Act (16 U.S.C., 670h). In addition, as a federal agency, DOI would be required to manage the natural resources under its control on the VNTR in compliance with the same federal conservation laws as the Navy. Therefore, there would be no adverse impacts on terrestrial flora or fauna.

4.6.2 NO ACTION ALTERNATIVE

Under this alternative, there would be no change to existing conditions. The Navy would continue to manage the Conservation Zones on the VNTR in accordance with the 1983 MOU, and would continue to comply with existing federal requirements in relation to Navy training

activities. Therefore, the no action alternative would have no significant impacts the terrestrial environment.

4.7 MARINE ENVIRONMENT

The marine environment includes the unique ecosystems of coral reefs, mangrove forests, and seagrass beds. Essential Fish Habitat is discussed separately in Section 4.8.

4.7.1 PROPOSED ACTION

Navy training activities on the VNTR and in the immediate marine environment surrounding the eastern end of Vieques would cease under the proposed action. There would be a slight positive impact from discontinued use of beaches for amphibious landings, however, disturbances of the shoreline during such operations is minimal during current training exercises. While the Navy has moved its targets further inland from the beaches to minimize the potential for inert ordnance landing in the waters surrounding the VNTR during current operations, there would also be a slight positive impact from discontinued ATG and NSFS operations and resultant elimination of potential for accidental water hits (inert ordnance falls or skips into the water) around the VNTR. Minor disturbance from Navy activities to coral reefs, mangroves, and seagrass beds would no longer occur. Upon transfer of this land to DOI, the VNTR would be administered as a wildlife refuge and a wilderness area, and DOI would be responsible for preparing comprehensive management plan to ensure that future use would not harm natural resources, including marine resources surrounding the VNTR. DOI would be held to the same standard of compliance with federal conservation laws as the Navy. Therefore, the proposed action would have no adverse impacts on coral reefs, mangrove forests, seagrass beds, or other marine resources.

4.7.2 NO ACTION ALTERNATIVE

Under this alternative, training activities on the VNTR would continue and there would be no change to existing conditions. The Navy has consulted with USFWS and NMFS regarding potential effects on marine habitat for threatened or endangered species. As discussed in the Programmatic EA prepared for current use of the VNTR (US Navy 2001a), continued training on the VNTR would have no significant impacts on the marine environment. All existing federal, Navy, and Commonwealth rules, regulations, and restrictions for conducting training in or near any of these marine ecosystems (e.g., coral reefs, mangroves, and seagrass beds) would be adhered to and maintained. Therefore, the no action alternative would have no significant impacts on the marine environment.

4.8 ESSENTIAL FISH HABITAT

4.8.1 PROPOSED ACTION

The proposed cessation of training would have no adverse effects on EFH and associated fisheries around the VNTR. Under the proposed action, training activities on the VNTR would end, however, the proposed action would result in no significant change to existing conditions as current training activities have been determined to have no adverse effects on such habitat. Following the land transfer to DOI, DOI would manage VNTR lands in compliance with the

same federal obligations, requirements, regulations, and restrictions as the Navy concerning EFH. Future actions by DOI at the VNTR, therefore would be reviewed for effects on EFH in coordination with NMFS, as appropriate. In addition, DOI is required by the Sikes Act (16 U.S.C., 670h) regulations to prepare a comprehensive management plan for the VNTR lands to ensure appropriate protection and conservation of natural resources.

4.8.2 NO ACTION ALTERNATIVE

The no action alternative would have no adverse effects on EFH and associated fisheries. The Navy has coordinated with NMFS regarding the EFH provisions of the Magnuson-Stevens Fisheries Conservation Management Act to ensure that an appropriate EFH assessment was completed for training operations at VNTR. On February 28, 2002, the Navy received confirmation from NMFS that the measures indicated in the Navy's EFH assessment to conserve EFH and associated fisheries were appropriate. As an additional conservation measure, NMFS requested that the Navy consult on subsequent training exercises during the January 2002 through December 2003 period on an individual exercise basis. Therefore, continued use of the VNTR for training operations at existing levels would require the Navy to continue to coordinate with the NMFS under the provisions of the Magnuson-Stevens Fisheries Conservation Management Act. It has been determined that current levels of Navy training operations on the VNTR have no adverse effects on EFH and are conducted in a manner that satisfies the requirements in the EFH provisions (US Navy 2002a, p. 17). This determination is based on a number of actions the Navy is taking to limit impacts on EFH, such as discontinuing use of live-ordnance, deactivating 3 near-shore NSFS targets in the LIA, and performing exercise-specific consultation with NMFS.

4.9 THREATENED AND ENDANGERED SPECIES

4.9.1 PROPOSED ACTION

The proposed action would have no effect on threatened or endangered species. Under the proposed action, Navy training activities at VNTR would cease. As a result, the land would be transferred to the DOI, which would manage VNTR lands under the same federal obligations, requirements, regulations, and restrictions as the Navy concerning threatened and endangered species. In addition, DOI is required to prepare a comprehensive management plan for the conservation of natural resources on the VNTR. The land, under DOI, would be managed to protect and preserve the natural resources, especially threatened and endangered species and the habitat that supports them. DOI also would review any future actions for compliance with applicable regulations and would consult with USFWS and NMFS as appropriate. The Navy would provide DOI with all of the surveys, studies, assessments, and management plans that the Navy has prepared regarding threatened and endangered species on Vieques to assist DOI in the management of such species. Therefore, the proposed action would have no effect on threatened or endangered species.

4.9.2 NO ACTION ALTERNATIVE

The no action alternative would have no effect on threatened or endangered species. The Navy prepared a Biological Assessment to assess potential impacts on federally-listed threatened and endangered species resulting from current levels of training at the VNTR (US Navy 2001b). In response to the Biological Assessment, the Navy received a Biological Opinion from USFWS in December 2001 that states that the current level of training at the VNTR “is not likely to jeopardize the continued existence of the above listed species [leatherback sea turtle, hawksbill sea turtle, green sea turtle, West Indian manatee, Brown Pelican, Roseate Tern], and is not likely to destroy or adversely modify designated habitat. There is no designated critical habitat within the area potentially affected by the proposed action.” As discussed in the Supplement to the Programmatic EA, the Navy concluded that naval training operations at the VNTR are conducted in a manner that satisfies the requirements of the Endangered Species Act (US Navy 2002a, p. 16 and 17).

4.10 CULTURAL RESOURCES

4.10.1 PROPOSED ACTION

The proposed action would have no adverse effects on cultural resources. The proposed cessation of training at VNTR would result in closure and transfer of the land and facilities to DOI. The transfer of land from one federal agency to another does not constitute an “undertaking” as defined in the NHPA, and would not require consultation by the Navy with the State Historic Preservation Office (SHPO). Sites that are listed/or potentially eligible for listing to the NRHP would fall under the management of DOI. As a federal agency, DOI would be obligated to protect and preserve these resources under the NHPA. The Navy would provide DOI with all of the surveys, studies, assessments, and management plans that the Navy has prepared regarding cultural resources on Vieques to assist DOI in the management of such resources.

4.10.2 NO ACTION ALTERNATIVE

The no action alternative would have no adverse effects on cultural resources. Under this alternative, the Navy would continue to conduct training exercises at the VNTR and throughout the PROA in a manner consistent with its Cultural Resource Management Plan (US Navy 1986) and in compliance with the NHPA. The multi-year program to continue identifying cultural resource sites and evaluate the eligibility of sites on the VNTR would continue. No eligible or listed cultural resources would be affected by continued operations of the VNTR.

4.11 ENVIRONMENTAL CONTAMINATION

4.11.1 PROPOSED ACTION

The proposed action would have no adverse impacts on public health and safety regarding environmental contamination. Under the proposed action, all Navy and Marine Corps training activities would cease at the VNTR, and the Navy would close the facilities and transfer the land to DOI for management. The Navy and DOI would work closely to coordinate the land transfer

ensuring that plans were in place for the identification, remediation as necessary, and security of all sensitive sites. The Navy would perform appropriate remediation of hazardous waste contamination and conduct response actions, as appropriate, to address munitions and explosives of concern (MEC) at VNTR, consistent with future use objectives as directed and required under public law to protect human health and ensure public safety. Because the Navy would have permanent responsibility for remediation and munitions response actions and public access would be prohibited from the LIA, it is anticipated that the proposed action would have no adverse impacts on public health and safety regarding environmental contamination.

4.11.2 NO ACTION ALTERNATIVE

The no action alternative would have no significant impacts on public health and safety regarding environmental contamination. Under this alternative, Navy and Marine Corps training exercises would continue at the VNTR at existing levels. The Navy would continue to identify and remediate hazardous waste contamination that migrates off range to appropriate levels for current land use. The Navy would continue to perform routine maintenance of the VNTR regarding munitions response for UXO, as the LIA would continue as an active range. Past and present contamination would continue to be managed by the Navy and would be in compliance with all federal, state, and local rules, regulations, and restrictions. Therefore, implementation of the no action alternative would not significantly change existing conditions in terms of environmental contamination.

4.12 ENVIRONMENTAL JUSTICE/PROTECTION OF CHILDREN FROM ENVIRONMENTAL HEALTH RISKS

4.12.1 PROPOSED ACTION

The proposed action would not result in additional health risks to low-income populations or to children. Under the proposed action, training activities on VNTR would cease, and the VNTR land would be transferred to DOI for management. DOI would take administrative control of the property and develop a comprehensive management plan in accordance with the Sikes Act (16 U.S.C., 670h) to conserve the natural resources on the VNTR. As required by PL 107-107, the LIA would be designated a wilderness area and all public access would be prohibited. However, public access to the wildlife refuge may occur in accordance with DOI's comprehensive management plan. Therefore, the Navy would coordinate with DOI to identify appropriate land use to reduce health risks from hazardous waste contamination and the explosives safety hazards posed by UXO located on the VNTR. As appropriate, the Navy would remediate hazardous waste contamination and perform munitions response for UXO on the VNTR to protect public health and safety. Therefore, the proposed action would not result in additional health risks to low-income populations or children.

4.12.2 NO ACTION ALTERNATIVE

The no action alternative would not result in additional health risks to low-income populations or children. If the no action alternative were chosen, training activities at VNTR would continue for 90 days a year at current levels. Training activities on the LIA would take place

approximately 10 miles from any populated areas on Vieques supporting minority or low-income populations and would not directly or indirectly affect these populations or children. As discussed in the Programmatic EA (US Navy 2001a) and the Supplement to the Programmatic EA (US Navy 2002a), numerous studies (e.g., noise, groundwater, and chemical dispersion) have determined that there is little evidence to support that there are adverse effects from training, ordnance delivery and/or cleanup, and overflights to hearing and health. Therefore, the no action alternative would not result in additional health risks to low-income populations or children.

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CHAPTER 5

OTHER CONSIDERATIONS REQUIRED BY NEPA

CEQ regulations stipulate that the cumulative effects analysis within an EA should consider the potential environmental impacts resulting from “the incremental impacts of the action when added to past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions” (40 CFR 1508.7). Recent CEQ guidance in considering cumulative effects involves defining the scope of the other actions and their interrelationship with the proposed action. The scope must consider geographical and temporal overlaps among the proposed actions and other actions. It must also evaluate the nature of interactions among these actions.

Cumulative effects are most likely to arise when a relationship or synergism exists between the proposed action and other actions expected to occur in a similar location or during a similar time period. Actions overlapping with or in proximity to the proposed action would be expected to have more potential for a relationship than those more geographically separated.

To identify cumulative effects, three fundamental questions need to be addressed:

1. Does a relationship exist such that affected resource areas of the proposed action might interact with the affected resource areas of past, present, or reasonably foreseeable actions?
2. If one or more of the affected resource areas of the proposed action and another action could be expected to interact, would the proposed action affect or be affected by impacts of the other action?
3. If such a relationship exists, then does an assessment reveal any potentially significant impacts not identified when the proposed action is considered alone?

5.1 ONGOING AND REASONABLY FORESEEABLE ACTIONS

Projects with the potential to interact with the implementation of the proposed action that could result in cumulative effects are few. Since the proposed action would transfer all VNTR land on Vieques to DOI, cumulative impacts on the island would be minimal. Once the land transfer has occurred it is the responsibility of the DOI to develop a comprehensive management plan for the conservation of the natural resources on the VNTR. DOI’s comprehensive management plan would be consistent with the Navy’s land use controls for protection of public health and safety. Development of the plan would include a level of public involvement with the citizens of Vieques and Puerto Rico.

5.2 POTENTIAL CUMULATIVE IMPACTS

The following discussion describes how the impacts of the other past, present, and reasonably foreseeable actions might affect resources impacted by the proposed action, and whether such relationships would result in potentially significant impacts not identified when the proposed

action is considered alone. Resources are grouped due to their similarity of impacts or interrelationship.

Land Use and Socioeconomic Resources. Implementation of the proposed action would result in a change of land use at VNTR and slight change in the economy of Vieques. There are no other planned projects known that may cumulatively impact land use and socioeconomics. The proposed action could have a slight positive impact on the land use of Vieques by providing more public access to VNTR lands while maintaining protection of its natural resources as a wildlife refuge and a wilderness area. There would be a short-term decrease in employment resulting in the loss of Navy civilian jobs on Vieques which would result in an annual loss of approximately \$2,000,000 to the local economy. However, over the long-term, the proposed action could have positive impacts on the island's economy resulting from increased tourism, which would contribute to sales, profits, jobs, tax revenue, and income on Vieques. Future growth and development of Vieques is expected to be moderated by the legislative requirements for use of the VNTR lands by DOI as a wildlife refuge and wilderness area, however, limited increases in permanent and seasonal populations on the island would be expected to occur. As growth occurs, there would be a slight increase in demand on the island's infrastructure, including transportation system, water and power supply, wastewater treatment and solid waste management facilities, communication systems, and community services and facilities.

Noise, Air Quality, Hydrology, and Water Quality. Implementation of the proposed action would not result in any cumulative increase in noise. There are no other planned projects known that may cumulatively impact air quality. In general, noise levels associated with the VNTR would decrease as a result of the proposed cessation of Navy and Marine Corps training. There would be no increases in criteria pollutant emissions (air quality) associated with DOI management of these lands, and hydrology and water quality of Vieques. Therefore, cumulative impacts to noise, air quality, hydrology, and water quality would be negligible.

Terrestrial and Marine Resources, Threatened and Endangered Species, and Essential Fish Habitat. These resources would not be adversely affected by the proposed action. There are no other planned projects known that may cumulatively impact these resources. The DOI would administer the VNTR lands at a wildlife refuge and a wilderness area. Therefore the cumulative impacts of the proposed action would have no effect on threatened or endangered species.

Cultural Resources. There are no other planned projects known that may cumulatively impact cultural resources. The proposed action would have no effect on cultural resources. This conclusion is supported because the proposed action on VNTR would result in the transfer of management from one federal agency (Navy) to another federal agency (DOI). Federal agencies are required to protect cultural resources in accordance with the NHPA and this would continue under DOI management.

Environmental Contamination. The Navy would continue its current program to identify and remediate hazardous waste contamination and conduct response actions, as appropriate, to address munitions and explosives of concern (MEC) at VNTR, as directed and required under public law to protect human health and ensure public safety.

5.3 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF NATURAL OR DEPLETABLE RESOURCES

NEPA requires that environmental analysis include identification of “...any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.” Irreversible and irretrievable resource commitments are related to the use of non-renewable resources and the effects that the uses of these resources have on future generations. Irreversible effects primarily result from the use or destruction of a specific resource (e.g., energy or minerals) that cannot be replaced within a reasonable time frame. Irretrievable resource commitments involve the loss in value of an affected resource that cannot be restored as a result of the action (e.g., the disturbance of a cultural site).

For the proposed action, management of the land would pass to the DOI. It is assumed that DOI will need vehicles to maintain and manage the lands, therefore, fuel consumption on a minimal basis could occur. Therefore, a minimal amount of this nonrenewable resource would be irreversibly lost or negligibly depleted.

5.4 RELATIONSHIP BETWEEN LOCAL SHORT-TERM USES OF MAN’S ENVIRONMENT AND MAINTENANCE AND ENHANCEMENT OF LONG-TERM BIOLOGICAL PRODUCTIVITY

NEPA requires an analysis of the relationship between a project’s short-term impacts on the environment and of the effects that these impacts may have on the maintenance and enhancement of the long-term productivity of the affected environment. Impacts that narrow the range of beneficial uses of the environment are of particular concern. This refers to the possibility that choosing one development option reduces future flexibility in pursuing other options, or that giving over a parcel of land or other resource to a certain use eliminates the possibility of other uses being performed at the site. Under the proposed action, the Navy would transfer lands formerly precluded from public use, to the DOI for administration as a wildlife refuge and a wilderness area. Implementation of the proposed action, therefore, would not result in any impacts that would reduce environmental productivity, permanently narrow the range of beneficial uses of the environment, or pose long-term risks to health, safety, or the general welfare of the public.

5.5 POSSIBLE CONFLICTS BETWEEN THE PROPOSED ACTION OR NO ACTION ALTERNATIVE AND THE OBJECTIVES OF FEDERAL AND STATE LAND USE PLANS, POLICIES, AND CONTROLS

Implementation of either the proposed action or the no action alternative would be consistent with federal public law and congressional mandates.

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CHAPTER 6

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CHAPTER 7

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Appendix A

Public Law 106-398, Sections 1501 - 1508
(National Defense Authorization Act for Fiscal Year 2001)

Public Law 107-107 Section 1049
(National Defense Authorization Act for Fiscal Year 2002)

Public Law 106-398, Sections 1501 - 1508
(National Defense Authorization Act for Fiscal Year 2001)

TITLE XV--NAVY ACTIVITIES ON THE ISLAND OF VIEQUES, PUERTO RICO

Sec. 1501. Assistance for economic growth on Vieques.

Sec. 1502. Conveyance of Naval Ammunition Support Detachment, Vieques Island.

Sec. 1503. Determination regarding continuation of Navy training.

Sec. 1504. Actions if training is approved.

Sec. 1505. Requirements if training is not approved or mandate for referendum is vitiated.

Sec. 1506. Certain properties exempt from conveyance or transfer.

Sec. 1507. Moratorium on improvements at Fort Buchanan.

Sec. 1508. Transfer and management of Conservation Zones.

SEC. 1501. ASSISTANCE FOR ECONOMIC GROWTH ON VIEQUES.

(a) **Authorization of Appropriations:** There is authorized to be appropriated to the Secretary of Defense for fiscal year 2000, \$40,000,000 to be used to provide economic assistance for the people and communities of the island of Vieques, Puerto Rico, in accordance with the terms and conditions of the Vieques supplemental appropriation.

(b) **Transfer Authority:** The Secretary of Defense may transfer amounts of authorizations made available to the Department of Defense in subsection (a) to any agency or office of the United States Government in order to implement the projects for which the Vieques supplemental appropriation is made available. The transfer authority under this section is in addition to any transfer authority provided in Public Law 106-65 or any other Act.

(c) **Notice to Congress:** The advance notice required by the Vieques supplemental appropriation of each proposed transfer shall also be submitted to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(d) **Definition:** In this section, the term 'Vieques supplemental appropriation' means the paragraph under the heading 'Operation and Maintenance, Defense-Wide' in chapter 1 of title I of the Emergency Supplemental Act, 2000 (division B of Public Law 106-246; 114 Stat. 525).

SEC. 1502. CONVEYANCE OF NAVAL AMMUNITION SUPPORT DETACHMENT, VIEQUES ISLAND.

(a) Conveyance Required:

(1) **Property to be conveyed:** The Secretary of the Navy shall convey, without consideration, to the Municipality of Vieques, Puerto Rico, all right, title, and interest of the United States in and to the land constituting the Naval Ammunition Support Detachment located on the western end of the island of Vieques, Puerto Rico, except for--

(A) the property that is exempt from conveyance under section 1506;

(B) the property that is required to be transferred to the Secretary of the Interior under section 1508(a); and

(C) any property that is conveyed pursuant to section 1508(b).

(2) **Time for conveyance:** The Secretary of the Navy shall complete the conveyance required by paragraph (1) not later than May 1, 2001.

(b) **Description of Property:** The Secretary of the Navy, in consultation with the Secretary of the Interior on issues relating to natural resource protection under section 1508, shall determine the exact acreage and legal description of the property required to be conveyed pursuant to subsection (a) including the legal description of any easements, rights of way, and other interests that are retained pursuant to section 1506.

(c) Environmental Restoration:

(1) **Objective of conveyance:** An important objective of the conveyance required by this section is to promote timely redevelopment of the conveyed property in a manner that enhances employment opportunities and economic redevelopment, consistent with all applicable environmental requirements and in full consultation with the Governor of Puerto Rico, for the benefit of the residents of the island of Vieques.

(2) **Conveyance despite response need:** If the Secretary of the Navy, by May 1, 2001, is unable to provide the covenant required by subparagraph (A)(ii)(I) of section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) with respect to the property to be conveyed, the Secretary shall still complete the conveyance by that date, as required by subsection (a)(2). The Secretary shall remain responsible for completing all response actions required under such Act. Upon completion of such response actions, the Secretary shall execute and deliver to the transferee the warranty referred to in subparagraph (C)(iii) of such section. The completion of the response actions shall not be delayed on account of the conveyance.

(3) **Continued navy responsibility:** Consistent with existing Navy and legal requirements, the Secretary of the Navy shall remain responsible for the environmental condition of the property, and neither the Commonwealth of Puerto Rico nor the Municipality of Vieques shall be responsible for such condition existing at the time of the conveyance.

(4) **Savings clause:** All response actions with respect to the property to be conveyed shall take place in compliance with current law.

(d) **Control of Conveyed Property:** The government of the Municipality of Vieques, acting through the elected

officials of that government, shall have the power to administer, manage, and control the property conveyed under subsection (a) in any manner determined by the government of the Municipality of Vieques as being most advantageous to the majority of the residents of the island of Vieques (consistent with the laws of the United States).

(e) Indemnification:

(1) **Entities and persons covered; extent:** (A) Except as provided in subparagraph (C), and subject to paragraph (2), the Secretary of Defense shall hold harmless, defend, and indemnify in full the persons and entities described in subparagraph (B) from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release (after the conveyance is made under subsection (a)) of any hazardous substance or pollutant or contaminant as a result of Department of Defense activities at those parts of the Naval Ammunition Support Detachment conveyed pursuant to subsection (a).

(B) The persons and entities described in this paragraph are the following:

(i) The Commonwealth of Puerto Rico (including any officer, agent, or employee of the Commonwealth of Puerto Rico).

(ii) The Municipality of Vieques, Puerto Rico, and any other political subdivision of the Commonwealth of Puerto Rico that acquires such ownership or control (including any officer, agent, or employee of that Municipality or other political subdivision).

(iii) Any other person or entity that acquires such ownership or control.

(iv) Any successor, assignee, transferee, lender, or lessee of a person or entity described in clauses (i) through (iii).

(C) To the extent the persons and entities described in subparagraph (B) contributed to any such release or threatened release, subparagraph (A) shall not apply.

(2) **Conditions on indemnification:** No indemnification may be afforded under this subsection unless the person or entity making a claim for indemnification—

(A) notifies the Secretary of Defense in writing within two years after such claim accrues or begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Secretary of Defense;

(B) furnishes to the Secretary of Defense copies of pertinent papers the entity receives;

(C) furnishes evidence of proof of any claim, loss, or damage covered by this subsection; and

(D) provides, upon request by the Secretary of Defense, access to the records and personnel of the entity for purposes of defending or settling the claim or action.

(3) **Responsibilities of secretary of defense:** (A) In any case in which the Secretary of Defense determines that the Department of Defense may be required to make indemnification payments to a person under this subsection for any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage referred to in paragraph (1)(A), the Secretary may settle or defend, on behalf of that person, the claim for personal injury or property damage.

(B) In any case described in subparagraph (A), if the person to whom the Department of Defense may be required to make indemnification payments does not allow the Secretary of Defense to settle or defend the claim, the person may not be afforded indemnification with respect to that claim under this subsection.

(4) **Accrual of action:** For purposes of paragraph (2)(A), the date on which a claim accrues is the date on which the plaintiff knew (or reasonably should have known) that the personal injury or property damage referred to in paragraph (1) was caused or contributed to by the release or threatened release of a hazardous substance or pollutant or contaminant as a result of Department of Defense activities at any part of the Naval Ammunition Support Detachment conveyed pursuant to subsection (a).

(5) **Relationship to other laws:** Nothing in this subsection shall be construed as affecting or modifying in any way subsection 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(6) **Definitions:** In this subsection, the terms 'hazardous substance', 'release', and 'pollutant or contaminant' have the meanings given such terms under paragraphs (9), (14), (22), and (33) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

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SEC. 1503. DETERMINATION REGARDING CONTINUATION OF NAVY TRAINING.

(a) Referendum:

(1) **Requirement:** Except as provided in paragraph (2), the President shall provide for a referendum to be conducted on the island of Vieques, Puerto Rico, to determine by a majority of the votes cast in the referendum by the Vieques electorate whether the people of Vieques approve or disapprove of the continuation of the conduct of live-fire

training, and any other types of training, by the Armed Forces at the Navy's training sites on the island under the conditions described in subsection (d).

(2) **Exception:** If the Chief of Naval Operations and the Commandant of the Marine Corps jointly submit to the congressional defense committees, after the date of the enactment of this Act and before the date set forth in subsection (c), their certification that the Vieques Naval Training Range is no longer needed for training by the Navy and the Marine Corps, then the requirement for a referendum under paragraph (1) shall cease to be effective on the date on which the certification is submitted.

(b) **Prohibition of Other Propositions:** In the referendum under this section, no proposition or option may be presented as an alternative to the propositions of approval and of disapproval of the continuation of the conduct of training as described in subsection (a)(1).

(c) **Time for Referendum:** The referendum required under this section shall be held on May 1, 2001, or within 270 days before such date or 270 days after such date. The Secretary of the Navy shall publicize the date set for the referendum 90 days before that date.

(d) **Required Training Conditions:** For the purposes of the referendum under this section, the conditions for the continuation of the conduct of training are those that are proposed by the Secretary of the Navy and publicized on the island of Vieques in connection with, and for a reasonable period in advance of, the referendum. The conditions shall include the following:

(1) **Live-fire training:** A condition that the training may include live-fire training.

(2) **Maximum annual days of use:** A condition that the training may be conducted on not more than 90 days each year.

(e) **Proclamation of Outcome:** Promptly after the referendum is completed under this section, the President shall determine, and issue a proclamation declaring, the outcome of the referendum. The President's determination shall be final, and the outcome of the referendum (as so determined) shall be binding.

(f) **Vieques Electorate Defined:**

(1) **Registered voters:** In this section, the term 'Vieques electorate', with respect to a referendum under this section, means the residents of the island of Vieques, Puerto Rico, who, on both dates specified in paragraph (2), are registered to vote in a general election held for casting ballots for the election of the Resident Commissioner of the Commonwealth of Puerto Rico.

(2) **Registration dates:** The dates referred to in paragraph (1) are as follows:

(A) November 7, 2000.

(B) The date that is 180 days before the date of the referendum under this section.

SEC. 1504. ACTIONS IF TRAINING IS APPROVED.

(a) **Condition for Effectiveness:** This section shall take effect on the date on which the President issues a proclamation under subsection (e) of section 1503 declaring that the

continuation of the conduct of training (including live-fire training) by the Armed Forces at the Navy's training sites on the island of Vieques, Puerto Rico, under the conditions described in subsection (d) of such section, has been approved in the referendum conducted under such section.

(b) **Authorization of Appropriations for Additional Economic Assistance:** There is authorized to be appropriated to the President \$50,000,000 to provide economic assistance for the people and communities of the island of Vieques. This authorization of appropriations is in addition to the amount authorized to be appropriated to provide economic assistance under section 1501.

(c) **Training Range To Remain Open:** The Vieques Naval Training Range shall remain available for the use of the Armed Forces, including for live-fire training.

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SEC. 1505. REQUIREMENTS IF TRAINING IS NOT APPROVED OR MANDATE FOR REFERENDUM IS VITIATED.

(a) **Conditions for Effectiveness:** This section shall take effect on the date on which either of the following occurs:

(1) The President issues a proclamation under subsection (e) of section 1503 declaring that the continuation of the conduct of training (including live-fire training) by the Armed Forces at the Navy's training sites on the island of Vieques, Puerto Rico, under the conditions described in subsection (d) of such section, has not been approved in the referendum conducted under such section.

(2) The requirement for a referendum under section 1503 ceases to be effective pursuant to subsection (a)(2) of such section.

(b) **Actions Required of Secretary of Defense:**

(1) **Termination of operation:** Not later than May 1, 2003, the Secretary of Defense shall--

- (A) terminate all Navy and Marine Corps training operations on the island of Vieques; and
 - (B) terminate all Navy and Marine Corps operations at Naval Station Roosevelt Roads, Puerto Rico, that are related exclusively to the use of the training range on the island of Vieques by the Navy and the Marine Corps.
 - (2) **Relocation of units:** The Secretary of Defense may relocate the units of the Armed Forces (other than those of the reserve components) and activities of the Department of Defense (including nonappropriated fund activities) at Fort Buchanan, Puerto Rico, to Naval Station Roosevelt Roads, Puerto Rico, to ensure maximum utilization of capacity.
 - (3) **Closure of installations and facilities:** The Secretary of Defense shall close the Department of Defense installations and facilities on the island of Vieques, other than properties exempt from conveyance and transfer under section 1506.
 - (c) **Actions Required of Secretary of the Navy:** The Secretary of the Navy shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior--
 - (1) the Live Impact Area on the island of Vieques;
 - (2) all Department of Defense real properties on the eastern side of the island that are identified as conservation zones; and
 - (3) all other Department of Defense real properties on the eastern side of the island.
 - (d) **Actions Required of Secretary of the Interior:**
 - (1) **Retention and administration:** The Secretary of the Interior shall retain, and may not dispose of any of, the properties transferred under paragraphs (2) and (3) of subsection (c) and shall administer such properties as wildlife refuges under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) pending the enactment of a law that addresses the disposition of such properties.
 - (2) **Responsibility for Live Impact Area:** Upon a termination of Navy and Marine Corps training operations on the island of Vieques under subsection (b)(1), the Secretary of the Interior shall assume responsibility for the administration of the Live Impact Area, administer that area as a wilderness area under the Wilderness Act (16 U.S.C. 1131 et seq.), and deny public access to the area.
 - (3) **Live Impact Area Defined:** In this section, the term 'Live Impact Area' means the parcel of real property, consisting of approximately 900 acres (more or less), on the island of Vieques that is designated by the Secretary of the Navy for targeting by live ordnance in the training of forces of the Navy and Marine Corps.
 - (e) **GAO Review:**
 - (1) **Requirement for review:** The Comptroller General shall review the requirement for the continued use of Fort Buchanan, Puerto Rico, by active Army forces and shall submit to the congressional defense committees a report containing--
 - (A) the findings resulting from the review; and
 - (B) recommendations regarding the closure of Fort Buchanan and the consolidation of units of the Armed Forces to Naval Station Roosevelt Roads, Puerto Rico.
 - (2) **Time for submittal of report:** The Comptroller General shall submit the report under paragraph (1) not later than one year after the date on which the referendum under section 1503 is conducted or one year after the date on which a certification is submitted to the congressional defense committees under subsection (a)(2) of such section, as the case may be.
- SEC. 1506. CERTAIN PROPERTIES EXEMPT FROM CONVEYANCE OR TRANSFER.**
- (a) **Exempt Property:** The Department of Defense properties and property interests described in subsection (b) may not be conveyed or transferred out of the Department of Defense under this title.
 - (b) **Properties Described:** The exemption under subsection (a) applies to the following Department of Defense properties and property interests on the island of Vieques, Puerto Rico:
 - (1) **ROTHR site:** The site for relocatable over-the-horizon radar.
 - (2) **Telecommunications sites:** The Mount Pirata telecommunications sites.
 - (3) **Associated interests:** Any easements, rights-of-way, and other interests in property that the Secretary of the Navy determines necessary for--
 - (A) ensuring access to the properties referred to in paragraphs (1) and (2);
 - (B) providing utilities for such properties;
 - (C) ensuring the security of such properties; and
 - (D) ensuring effective maintenance and operations on such properties.
 - (4) **Remediation activities:** Any easements, rights-of-way, and other interests in property that the Secretary of the Navy determines necessary for protecting human health and the environment in the discharge of the Secretary's responsibilities for environmental remediation under section 1502(c), until such time as these responsibilities are completed.

SEC. 1507. MORATORIUM ON IMPROVEMENTS AT FORT BUCHANAN.

(a) **In General:** Except as provided in subsection (b), no acquisition, construction, conversion, rehabilitation, extension, or improvement of any facility at Fort Buchanan, Puerto Rico, may be initiated or continued on or after the date of the enactment of this Act.

(b) **Exceptions:** The prohibition in subsection (a) does not apply to the following:

(1) Actions necessary to maintain the existing facilities (including utilities) at Fort Buchanan.

(2) The construction of reserve component and nonappropriated fund facilities authorized before the date of the enactment of this Act.

(c) **Termination:** This section shall cease to be effective upon the issuance of a proclamation described in section 1504(a) or the enactment of a law, after the date of the enactment of this Act, that authorizes any acquisition, construction, conversion, rehabilitation, extension, or improvement of any facility at Fort Buchanan, Puerto Rico.

SEC. 1508. TRANSFER AND MANAGEMENT OF CONSERVATION ZONES.

(a) **Transfer to Secretary of the Interior:**

(1) **Transfer required:** Except as provided in section 1506, the Secretary of the Navy shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior all Department of Defense real properties on the western end of the Vieques Island, consisting of a total of approximately 3,100 acres, that are designated as Conservation Zones in section IV of the 1983 Memorandum of Understanding between the Commonwealth of Puerto Rico and the Secretary of the Navy.

(2) **Time for transfer:** The Secretary of the Navy shall complete the transfer required by paragraph (1) not later than May 1, 2001.

(b) **Conveyance to Conservation Trust:**

(1) **Conveyance required:** Except as provided in section 1506 and subject to paragraph (2), the Secretary of the Navy shall convey, without consideration, to the Puerto Rico Conservation Trust the additional Conservation Zones, consisting of a total of approximately 800 acres, identified in Alternative 1 in the Draft Environmental Assessment for the proposed transfer of Naval Ammunition Support Detachment property, Vieques, Puerto Rico, prepared by the Department of the Navy, as described in the Federal Register of August 28, 2000 (65 Fed. Reg. 52100).

(2) **Time for conveyance:** The Secretary of the Navy shall complete the conveyance required by paragraph (1) not later than May 1, 2001, except that paragraph (1) shall apply only to those portions of the lands described in such paragraph that the Commonwealth of Puerto Rico, the Secretary of the Interior, and the Puerto Rico Conservation Trust mutually agree, before that date, to--

(A) include in the cooperative agreement under subsection (d)(1); and

(B) manage under standards consistent with the standards in subsection (c) applicable to the lands transferred under subsection (a).

(c) **Administration of Properties as Wildlife Refuges:** The Secretary of the Interior shall administer as wildlife refuges under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) the Conservation Zones transferred to the Secretary under subsection (a).

(d) **Cooperative Agreement:**

(1) **Required; parties:** The Secretary of the Interior shall manage the Conservation Zones transferred under subsection (a) pursuant to a cooperative agreement among the Commonwealth of Puerto Rico, the Puerto Rico Conservation Trust, and the Secretary of the Interior.

(2) **Inclusion of adjacent areas:** Areas adjacent to the Conservation Zones transferred under subsection (a) shall be considered for inclusion under the cooperative agreement. Subject to the mutual agreement of the Commonwealth of Puerto Rico, the Secretary of the Interior, and the Puerto Rico Conservation Trust, such adjacent areas may be included under the cooperative agreement, except that the total acreage so included under this paragraph may not exceed 800 acres. This determination of inclusion of lands shall be incorporated into the cooperative agreement process as set forth in paragraph (4).

(3) **Sea grass area:** The Sea Grass Area west of Mosquito Pier, as identified in the 1983 Memorandum of Understanding between the Commonwealth of Puerto Rico and the Secretary of the Navy, shall be included in the cooperative agreement to be protected under the laws of the United States and the laws of the Commonwealth of Puerto Rico.

(4) **Management purposes:** All lands covered by the cooperative agreement shall be managed to protect and preserve the natural resources of the lands in perpetuity. The Commonwealth of Puerto Rico, the Puerto Rico Conservation Trust, and the Secretary of the Interior shall follow all applicable Federal environmental laws during the creation and any subsequent amendment of the cooperative agreement, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(5) Completion and Implementation: The cooperative agreement shall be completed not later than May 1, 2001. The Secretary of Interior shall implement the terms and conditions of the cooperative agreement, which can only be amended by agreement of the Commonwealth of Puerto Rico, the Puerto Rico Conservation Trust, and the Secretary of the Interior.

Public Law 107-107 Section 1049
(National Defense Authorization Act for Fiscal Year 2002)

**SEC. 1049. TERMINATION OF REFERENDUM REQUIREMENT REGARDING
CONTINUATION OF MILITARY TRAINING ON ISLAND OF VIEQUES, PUERTO RICO,
AND IMPOSITION OF ADDITIONAL CONDITIONS ON CLOSURE OF TRAINING RANGE.**

(a) In General.--Title XV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-348) is amended by striking sections 1503, 1504, and 1505 and inserting the following new sections:

SEC. 1503. CONDITIONS ON CLOSURE OF VIEQUES NAVAL TRAINING RANGE.

(a) Conditional Authority To Close.--The Secretary of the Navy may close the Vieques Naval Training Range on the island of Vieques, Puerto Rico, and discontinue training at that range only if the Secretary certifies to the President and Congress that both of the following conditions are satisfied:

(1) One or more alternative training facilities exist that, individually or collectively, provide an equivalent or superior level of training for units of the Navy and the Marine Corps stationed or deployed in the eastern United States.

(2) The alternative facility or facilities are available and fully capable of supporting such Navy and Marine Corps training immediately upon cessation of training on Vieques.

(b) Consultation Required.--In determining whether the conditions specified in paragraphs (1) and (2) of subsection (a) are satisfied, the Secretary of the Navy shall take into account the written views and recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps. The Secretary shall submit these written views and recommendations to Congress with the certification submitted under subsection (a).

**SEC. 1504. CLOSURE OF VIEQUES NAVAL TRAINING RANGE AND DISPOSAL OF
CLOSED
RANGE.**

(a) Termination of Training and Related Closures.--If the conditions specified in section 1503(a) are satisfied and the Secretary of the Navy makes a determination to close the Vieques Naval Training Range and discontinue live-fire training at that range the Secretary of the Navy shall--

(1) terminate all Navy and Marine Corps training operations on the island of Vieques;

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(2) terminate all Navy and Marine Corps operations at Naval Station Roosevelt Roads, Puerto Rico, that are related exclusively to the use of the training range on the island of Vieques by the Navy and the Marine Corps; and

(3) close the Navy installations and facilities on the island of Vieques, other than properties exempt from conveyance and transfer under section 1506.

((b) Transfer to Secretary of the Interior.--Upon termination of Navy and Marine Corps training operations on the island of Vieques, the Secretary of the Navy shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior--

((1) the Live Impact Area on the island of Vieques;

((2) all Department of Defense real properties on the eastern side of the island that are identified as conservation zones; and

((3) all other Department of Defense real properties on the eastern side of the island.

((c) Administration by Secretary of the Interior.--

((1) Retention and administration.--The Secretary of the Interior shall retain, and may not dispose of any of, the properties transferred under paragraphs (2) and (3) of subsection (b) and shall administer such properties as wildlife refuges under the National Wildlife Refuge System

Administration

Act of 1966 (16 U.S.C. 668dd et seq.) pending the enactment of

a

law that addresses the disposition of such properties.

((2) Live impact area.--The Secretary of the Interior shall

assume responsibility for the administration of the Live Impact Area upon transfer under paragraph (1) of subsection (b), administer that area as a wilderness area under the Wilderness Act (16 U.S.C. 1131 et seq.), and deny public access to the area.

((d) Live Impact Area Defined.--In this section, the term 'Live Impact Area' means the parcel of real property, consisting of approximately 900 acres (more or less), on the island of Vieques that is designated by the Secretary of the Navy for targeting by live ordnance in the training of forces of the Navy and Marine Corps.''.

(b) Conforming Amendment.--Section 1507(c) of such Act (114 Stat. 1654A-355) is amended by striking 'the issuance of a proclamation described in section 1504(a) or'.

Appendix B

**Presidential Directive to the Secretary of Defense
January 31, 2000**

Resolution Regarding Use of Range Facilities on Vieques, Puerto Rico

THE WHITE HOUSE

WASHINGTON

January 31, 2000

**DIRECTIVE TO THE SECRETARY OF DEFENSE
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET**

**SUBJECT: Resolution Regarding Use of Range Facilities
on Vieques, Puerto Rico (Referendum)**

By virtue of the authority vested in me and in order to further the interests of national security and to address the legitimate interests and concerns of the residents of Vieques and the people of Puerto Rico, I hereby direct the following:

1. The future of Navy training on Vieques will be determined by a referendum of the registered voters of Vieques, using Puerto Rico electoral laws and regulations as they exist as of the date of this directive. This referendum will occur on May 1, 2001, or 270 days prior to or following May 1, 2001, the exact date to be specified on the request of the Department of the Navy. (This specified date and the terms of the referendum must be requested at least 90 days in advance of the referendum.) It is understood that the full implementation of this directive is contingent upon the Government of Puerto Rico authorizing and supporting this referendum, and the cooperation of the Government of Puerto Rico as specified in paragraph 5(a).
2. This referendum will present two alternatives. The first shall be that the Navy will cease all training not later than May 1, 2003. The second will permit continued training, to include live fire training, on terms proposed by the Navy. Live fire training is critical to enhance combat readiness for all our military personnel and must occur in some location.
3. In the event the referendum selects the option of termination of Navy activities, then
 - (a) Navy lands on the Eastern side of Vieques (including the Eastern Maneuver Area and the Live Impact Area) will be transferred within 1 year of the referendum to the General Services Administration (GSA) for disposal under the Federal Property and Administrative Services Act, except for conservation zones, which will be transferred to the Department of the Interior for continued preservation.

(b) The GSA will supervise restoration of the lands described in section 3(a) consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) before it is further transferred under the Federal Property and Administrative Services Act, except that the Live Impact Area will be swept for ordnance and fenced to meet the same range standards used after the closure of the live impact area used by Naval Air Station, South Weymouth, Massachusetts. The Government of Puerto Rico may request transfer of the restored lands in accordance with the Federal Property and Administrative Services Act.

(c) Under no conditions will the land described in this section be returned to the Department of Defense or used for military training.

4. In the event the referendum selects the option of continued training submitted by the Navy, the Office of Management and Budget will request congressional funding to further provide for the enhancement of infrastructure and housing on the Western portions of Vieques in the amount of \$50 million.

5. Between the date of this directive and the referendum, the following will occur:

(a) The Department of Defense and the Government of Puerto Rico will work in cooperation with relevant Federal authorities to ensure the integrity and accessibility of the range is uninterrupted and trespassing and other intrusions on the range cease entirely by providing complementary support among Federal and Puerto Rican jurisdictions.

(b) Navy training on Vieques will recommence, but it shall not exceed 90 days per calendar year and will be limited to non-explosive ordnance, which may include spotting devices.

(c) The Navy will ensure procedures are in place that will enhance safety and will position ships to reduce noise in civilian areas whenever possible.

(d) Before any major training occurs on the range, the Government of Puerto Rico, through its Secretary of State, will be given 15 days notification under the terms of the Memorandum of Understanding of 1983.

(e) The Office of Management and Budget will initiate a funding request to the Congress:

(1) to fund a Public Health Service study in coordination with appropriate agencies to review health concerns raised by the residents of Vieques.

(2) to complete the conveyance of 110 acres of Navy property to extend the runway at the Vieques Municipal Airport to accommodate larger passenger aircraft; and for the Navy to provide training and supplemental equipment to bolster the airport fire, safety, and resource capability.

(3) to maintain the ecosystem and conservation zones and implement the sea turtle, sea mammal, and Brown Pelican management plans as specified in the Memorandum of Understanding of 1983.

(f) Within 30 days of this directive, the Navy will submit legislation to the Congress to transfer land on the Western side of Vieques surrounding the Naval Ammunition Facility (except 100 acres of land on which the ROTEX and Mount Pirata telecommunications sites are located). The legislation submitted will provide for land transfer not later than December 31, 2000. This transfer will be to the Government of Puerto Rico for the benefit of the municipality of Vieques as determined by the Planning Board of the Government of Puerto Rico. This land shall be restored consistent with CERCLA standards prior to transfer.

6. This Director of CMS shall publish this directive in the Federal Register.

William S. Clinton